IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.1205/07

Girdhari Lal **Versus** State & Ors.

DATE OF ORDER :: 09/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Suresh Kashyap, for petitioner

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Instant petition has been filed assailing the Award passed by the Labour Court No.2, Jaipur dated 29th December, 2006 [Ann.6].

Petitioner-workman pleaded in statement of claim that he had worked on daily wages basis from 12th June, 1991 till his verbal termination i.e. 2nd April, 1992 and also submitted that there was violation of Sections 25-F, 25-G & 25-H of Industrial Disputes Act, 1947.

Learned Tribunal after adjudication of dispute recorded a finding that workman has failed to establish that he had worked for 240 days in preceding 12 months from the date of his alleged termination. As such, there was no violation of Section 25-F of the Act, 1947.

So far as Section 25-G is concerned, learned Labour Court has also recorded a finding in Para 13 that primary onus was upon the workman to prove that there was violation of Section 25-G which he has failed to do so.

Counsel for petitioner submits that Sections 25-G & 25-H are independent provisions and even if he has not worked for 240 days in preceding 12 months, it has to be independently examined as to whether his juniors were retained in service while dispensing with his services in April, 1992 by the respondents and if any fresh appointments were made after his termination, atleast he was entitled for re-employment in terms of Section 25-H of the Act, but that has not been properly appreciated and counsel has also brought to the notice of this court, particularly, cross-examination of one of their officers Rohitashav Kumar S/o Shri Birbar Singh [Ann.5] working as Assistant Engineer, which has not been examined by the Labour Court while recording the said finding.

I have considered the submission of the counsel and perused the material available on record.

Looking to the fact that petitioner had worked as per his own saying from 12th June, 1991 till verbal termination i.e. 2nd April, 1992 and was not able to establish about the fact that he had worked for 240 days.

So far as Sections 25-F & 25-H are concerned, it is true that these are independent provisions and there is no such requirement that the workman must work for 240 days, but still from the

record, I find that the finding has been recorded, which is duly supported by material on record so far as Sections 25-G & 25-H are concerned and looking to overall working of petitioner in their establishment, I do not find any justification to interfere in the impugned finding recorded by the learned Labour Court in Award [Ann.6].

Consequently, the writ petition fails and is hereby dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.